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EXAMINER

SHINGLES, KRISTIE D

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/578,816
Filing Date: May 24, 2000
Appellant(s): YEN, ROBERT C.

C. Douglass Thomas
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/14/2010 appealing from the Office action mailed on 10/14/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 5, 11, 12, 15, 17-25 and 28.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN

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REJECTIONS.” New grounds of rejection (if any) are provided under the subheading “NEW GROUNDS OF REJECTION.”

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant’s brief.

(8) Evidence Relied Upon

7,003,558	ARGUSA et al	2-2006
6,665,704	SINGH	12-2003
5,701,580	YAMANE et al	12-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 5, 11-12, 15, 17-25 and 28 are pending.

Response to Arguments

In light of Applicant's Pre-Appeal Brief arguments filed 11/26/2008, with respect to claims 5, 12, 15, 21, 25 and 28, the remarks have been considered but are moot in view of the new ground(s) of rejection.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15 and 17-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Agrusa et al (US 7,003,558).

a. Per claims 15, Agrusa et al teach a data transmission system for transmitting data from content server to requestors through a data network, said data transmission system comprising:

- a plurality of data distribution centers, said distribution centers being connected to the data network (col.3 lines 3-26, col.4 lines 46-51, col.5 line 21-col.6 line 23);
- wherein data transmissions between the content servers said data distribution centers use a multi-destination format so as to reduce congestion (Abstract, col.3 lines 3-15—system aggregates requests and delivers to each requester), and
- wherein the multi-destination format uses multi-destination data packets, the multi-destination data packets include at least multiple destination fields and a data field (col.2 line 66-col.3 line 14, col.9 lines 23-50).

b. Claim 21 is substantially similar to claim 15 and is therefore rejected under the same basis.

c. Per claim 17, Agrusa et al teach the data transmission system as recited in claim 15, wherein the data network is the Internet (col.1 lines 24-27).

d. Claim 23 is substantially similar to claim 17 and is therefore rejected under the same basis.

e. Per claim 18, Agrusa et al teach the data transmission system as recited in claim 15, wherein said data distribution centers are utilized between the content servers and the requestors (col.1 line 67-col.2 line 25, col.3 lines 3-26).

f. Per claim 19, Agrusa et al teach the data transmission system as recited in claim 15, wherein data transmissions between said data distribution centers use a multi-destination format (col.3 lines 3-26, col.9 lines 54-62).

g. Per claim 20, Agrusa et al teach the data transmission system as recited in claim 15, wherein data distribution centers service a large number of content servers and only temporarily store data being requested and to be transmitted to the requestors (col.15 lines 25-28).

h. Per claim 22, Agrusa et al teach the system as recited in claim 21, wherein each of the data distribution centers in a geographically different location (col.2 lines 36-43, col.4 lines 44-51, col.5 line 44-col.6 line 59, col.7 lines 8-65).

i. Per claim 24, Agrusa et al teach the system as recited in claim 21, wherein the multi-destination packets include a plurality of destination locations and data (col.3 lines 3-26, col.9 lines 23-36).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 12, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agrusa et al (US 7,003,558) in view of Singh (US 6,665,704).

a. Per claim 12, Agrusa et al teach a method for sending data over the Internet, said method comprising:

- receiving a plurality of requests for a particular resource provided at a remote server on the Internet, the plurality of requests being provided by different requestors (col.3 lines 3-15—plural request for same data);
- retrieving the particular resource from the remote server once for the plurality of requests to obtain the particular resource requested by the plurality of requests (col.2 lines 9-14—retrieve data for plural requests); and
- thereafter sending the particular resource to the different requestors (col.2 lines 9-14),
- wherein a data distribution center is coupled to the Internet to assist with the transfer of data (col.3 lines 3-26, col.4 lines 46-51), and
- wherein said sending of the particular resource to the different requestors comprises: forming multi-destination data packets to carry data of the particular resource (col.2 line 66-col.3 line 14);
- transmitting the multi-destination data packets from the remote server to the data distribution center (col.3 lines 3-26);
- converting the multi-destination data packets received at the data distribution center into single destination data packets (col.2 line 66-col.3 line 14, col.9 lines 23-50); and
- transmitting the single-destination data packets from the data distribution center to the different requestors, thereby delivering the particular resource requested to the different requestors (col.2 line 66-col.3 line 14, col.9 lines 23-50).

However, Agrusa et al fail to explicitly to teach wherein the particular resource comprises digital data. However, Singh teaches receiving multiple concurrent client requests for data supplied by a web server via a browser, wherein at least one consumer must request the data

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in order for the data to be retrieved (col.3 lines 65-67, col.7 lines 5-45, col.8 lines 10-19 and 33-66, col.9 lines 16-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Agrusa et al with Singh for the purpose of supplying digital data to satisfy multiple concurrent from requesters; because it is obvious for web servers to supply and cache digital data for client's web requests.

b. Claims 25 and 28 contain limitations that are substantially equivalent to claim 12 and are therefore rejected under the same basis.

Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agrusa et al (US 7,003,558) in view of Yamane et al (US 5,701,580).

c. Per claim 5, Agrusa et al teach a method for sending data over the Internet, said method comprising:

- receiving a plurality of requests for a particular resource provided at a remote server on the Internet, the plurality of requests being provided by different requestors (col.3 lines 3-15—plural request for same data);
- retrieving the particular resource from the remote server once for the plurality of requests to obtain the particular resource requested by the plurality of requests (col.2 lines 9-14—retrieve data for plural requests); and
- thereafter sending the particular resource to the different requestors (col.2 lines 9-14),

Agrusa et al fail to explicitly to teach wherein the particular resource comprises digital data and wherein said retrieving and/or said sending are performed after a predetermined quantity of the plurality of requests have been received. However, Yamane et al teach receiving

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multiple user requests for the same web data, and broadcasting the requested web data to users after a predetermined number of requests have been collected (col.9 line 42-col.10 line 29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Agrusa et al with Yamane et al for the purpose of supplying digital data to satisfy multiple concurrent from requesters wherein a predetermined number of request are received before being transmitted, because imposing a predetermined quantity for requests makes the retrieval process more efficient since the requested data is retrieved fewer times for satisfying multiple requests of the same data.

d. Per claim 11, Agrusa et al with Yamane et al teach the method as recited in claim 5, Agrusa et al further teach wherein said sending of the particular resource to the different requestors comprises: forming multi-destination packets to carry data of the particular resource; and transmitting the multi-destination data packets (col.2 line 66-col.3 line 14, col.9 lines 23-50; Yamane et al: col.8 lines 35-39, col.10 lines 18-29, col.11 lines 58-67).

(10) Response to Argument

A. Regarding claims 15 and 21, Appellant argues that cited prior art Agrusa et al fails to teach the claimed feature of “a plurality of data distribution centers”.

Examiner respectfully disagrees. Agrusa et al clearly teach a plurality of computers that function as “data distribution centers” that are connected to a data network (col.3 lines 18-33). Figures 1 and 2 further illustrated the plurality of computers connected to the network. The fact that the computers and servers are used in a factory environment does not disqualify the teachings and embodiments rendered in the Agrusa et al reference. The

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factory/manufacturing environment for the plurality of data distribution centers and for the multi-destination data packets is but intended use of that should not distract from disclosure's anticipation of the claimed limitations. Appellant's arguments are therefore unpersuasive and the rejection is therefore maintained.

B. Regarding claims 15 and 21, Appellant argues that cited prior art Agrusa et al fails to teach the claimed feature of “data distribution centers use of a multi-destination format so as to reduce congestion”.

Examiner respectfully disagrees. Agrusa et al clearly teach that the communication between the plurality of computers over the network involves aggregating multiple requests for the same information into one single request in order to reduce the congestion and overhead of having to retrieve the same information multiple time (col.3 lines 1-14, col.9 lines 23-36), wherein the information is then disseminated to all of the requestors which functions as a multi-destination format since the once-retrieved information is sent to multiple destinations (col.9 lines 37-50). Appellant's arguments are therefore unpersuasive and the rejection is therefore maintained.

C. Regarding claims 15 and 21, Appellant argues that cited prior art Agrusa et al fails to teach the claimed feature of “a multi-destination format that uses multi-destination data packets including at least multiple destination fields and a data field”.

Examiner respectfully disagrees. Agrusa et al clearly teach that the communication between the plurality of computers over the network involves aggregating multiple requests for the same information into one single request in order to reduce the congestion and overhead of having to retrieve the same information multiple time (col.3 lines 1-

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14, col.9 lines 23-36), wherein the information is then disseminated to all of the requestors which functions as a multi-destination format since the once-retrieved information is sent to multiple destinations (col.9 lines 37-50). The multiple destination fields and data field are inherent and obvious in the message used to disseminate to the plurality of requestors. Appellant's arguments are therefore unpersuasive and the rejection is therefore maintained.

D. Regarding claims 12, 25 and 28, Appellant argues that cited prior art Agrusa et al and Singh fail to teach the claimed feature of "forming multi-destination data packets to carry data packets to carry data of the particular resource".

Examiner respectfully disagrees. As stated in the response above, Agrusa et al clearly teach that the communication between the plurality of computers over the network involves aggregating multiple requests for the same information into one single request in order to reduce the congestion and overhead of having to retrieve the same information multiple time (col.3 lines 1-14, col.9 lines 23-36), wherein the information is then disseminated to all of the requestors which functions as a multi-destination format since the once-retrieved information is sent to multiple destinations (col.9 lines 37-50). Singh was used in the 35 USC 103(a) rejection to teach that the information being requested and communicated is digital data (col.3 lines 65-67, col.8 lines 33-66). Appellant's arguments are therefore unpersuasive and the rejection is therefore maintained.

E. Regarding claims 12, 25 and 28, Appellant argues that cited prior art Agrusa et al and Singh fail to teach the claimed feature of "transmitting multi-destination data packets from a remote server to a data distribution center".

Examiner respectfully disagrees. As stated in the response above, Agrusa et al clearly teach communication transmission between the plurality of computers over the network

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involves aggregating multiple requests for the same information into one single request in order to reduce the congestion and overhead of having to retrieve the same information multiple time (col.3 lines 1-14, col.9 lines 23-36), wherein the information is then disseminated to all of the requestors which functions as a multi-destination format since the once-retrieved information is sent to multiple destinations (col.9 lines 37-50). Singh was used in the 35 USC 103(a) rejection to teach that the information being requested and communicated is digital data (col.3 lines 65-67, col.8 lines 33-66). Appellant's arguments are therefore unpersuasive and the rejection is therefore maintained.

F. Regarding claims 12, 25 and 28, Appellant argues that cited prior art Agrusa et al and Singh fail to teach the claimed feature of “converting multi-destination data packets received at a data distribution center into single destination data packets”.

Examiner respectfully disagrees. As stated in the response above, Agrusa et al clearly teach communication transmission between the plurality of computers over the network involves converting multiple requests for the same information into one single aggregated request in order to reduce the congestion and overhead of having to retrieve the same information multiple time (col.3 lines 1-14, col.9 lines 23-36), wherein the information is then disseminated to all of the requestors which functions as a multi-destination format since the once-retrieved information is sent to multiple destinations (col.9 lines 37-50). Appellant's arguments are therefore unpersuasive and the rejection is therefore maintained.

G. Regarding claim 5, Appellant argues that cited prior art Agrusa et al and Yamane et al fail to teach the claimed feature of “receiving and/or said sending are performed after a predetermined quantity of the plurality of requests have been received” and “processing of a predetermined quantity of request for a particular resource”.

Examiner respectfully disagrees. Yamane et al specifically disclose receiving multiple user-requests for the same web data and broadcasting the requested web data to the requesting user after a predetermined number of requests have been collected (col.9 line 42-col.10 line 29). Agrusa et al clearly teach communication transmission between the plurality of computers over the network involves converting multiple requests for the same information into one single aggregated request in order to reduce the congestion and overhead of having to retrieve the same information multiple times (col.3 lines 1-14, col.9 lines 23-36). However Agrusa et al fail to explicitly teach that the single aggregated request is sent after a certain number of requests have been received, therefore Examiner combined the teachings of Agrusa et al with Yamane et al for realizing the obviousness of predetermining how many requests are received before aggregating the requests into a single request. Appellant's arguments are therefore unpersuasive and the rejection is therefore maintained.

For the above reasons, it is believed that the rejections should be sustained.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,

/Kristie D. Shingles/

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/FIRMIN BACKER/

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